

Appeal of Robert E. Le Doux

For the taxable year in question, appellant did not file a California personal income tax return. When respondent received information from the California Employment Development Department indicating that appellant had earned \$19,946.55 as a salesman, it demanded that he file a return promptly. In response, appellant conceded that he had earned \$19,946.55 in 1976 as a California resident but he insisted that no return was required because the income was exempt. Specifically, he stated that he was a duly ordained minister and he urged that his income was not taxable pursuant to section 18807 of the California Revenue and Taxation Code and section 3401 of the Internal Revenue Code of 1954. Noting that these code sections pertain to tax withholding requirements and are not relevant to whether income is taxable, respondent issued the subject proposed assessment of tax. The assessment included penalties for failure to file a return and for failure to furnish information upon request.

It is settled law that respondent's determinations of tax, including the penalties involved in this case, are presumptively correct, and that the taxpayer bears the burden of proving them erroneous. (See, e.g., Appeal of K. L. Durham, Cal. St. Bd. of Equal., March 4, 1980; Appeal of Harold G. Jindrich, Cal. St. Bd. of Equal., April 6, 1977.) No error has been shown. Appellant has misplaced his reliance upon code sections that clearly **do** not exempt his income from tax. In addition, based upon the record before us and in the absence of a valid return, appellant has not established to our satisfaction that he was married or that he had four dependent children in 1976. If adequate proof can be supplied to respondent, that office would be in a position to make appropriate adjustments.

For the above reasons, respondent's action in this matter will be sustained.

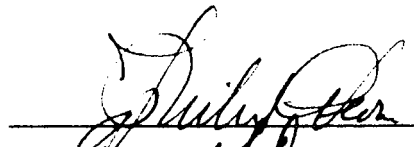
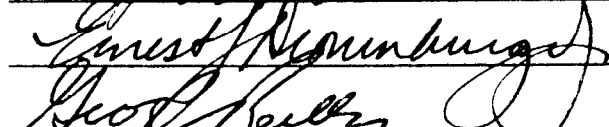
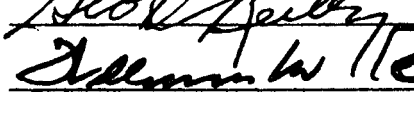
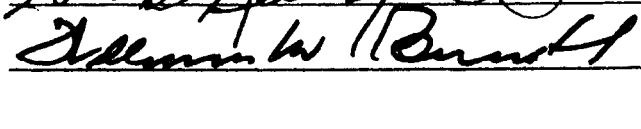
O R D E R

Pursuant to the views expressed in the opinion of the board **on file** in this proceeding, and good cause appearing therefor,

Appeal of Robert E. Le Doux

IT IS HEREBY ORDERED, ADJUDGED AND DECREED.
pursuant to section 18595 of the Revenue and Taxation Code,
that the action of the Franchise Tax Board on the protest
of Robert E. Le Doux against a proposed assessment of per-
sonal income tax and penalties in the total amount of
\$1,774.50 for the year 1976, be and the same is hereby
sustained.

Done at Sacramento, California, this 21st day of
May , 1980, by the State Board of Equalization.

	, Chairman
	, Member
	, Member
	, Member
_____	, Member